

TRANSCRIPT OF MEETING

RE: 34-46 BROOKHOLLOW AVENUE, NORWEST PLANNING PROPOSAL (PP-2023-2049) – GATEWAY DETERMINATION **REVIEW**

DEPARTMENT MEETING

PANEL: MR MICHAEL WRIGHT (CHAIR)

KENDALL CLYDSDALE OFFICE OF THE IPC:

OLIVER COPE

ELIZABETH KIMBELL **DEPARTMENT**

REPRESENTATIVES: **RUKSHAN DE SILVA**

GABRIELLE COLEMAN

LOCATION: **ZOOM VIDEOCONFERENCE**

DATE: 3:30PM - 4:30PM

TUESDAY, 27TH AUGUST 2024

<THE MEETING COMMENCED

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MR WRIGHT: Hi. Thanks for joining us. Just before we move into proceedings proper, I'm just going to read from an opening statement which is standard practice for the Commission. I'm sure you may well have heard this before if you've been to one of the sessions.

So before we begin, I'd like to acknowledge that I'm speaking to you from Gweagal land actually, in Southern Sydney, and I acknowledge the traditional owners of all of the country from which we virtually meet today and pay my respects to their elders past and present. Welcome to the meeting today to discuss 34–46 Brookhollow Avenue, Norwest Planning Proposal (PP-2023-2049), Gateway Determination Review currently before the Commission. The Commission has been asked to provide advice on whether condition 1A of the Gateway determination for planning proposal PP-2023-2049 should be deleted.

My name is Michael Wright and I am chair of this single commissioner Commission panel. I'm joined today by Kendall Clydsdale and Oliver Cope from the Office of the Independent Planning Commission. In the interests of openness and transparency and to ensure the full capture of information, today's meeting is being recorded and a complete transcript will be produced and made available on the Commission's website. This meeting is one part of the Commission's consideration of this matter and will form one of several sources of information upon which the Commission will base its advice.

It's important for me as the commissioner to ask questions of attendees and to clarify issues whenever it is considered appropriate. If you are asked a question and you are not in a position to answer, please feel free to take the question on notice and provide additional information in writing, which we'll then put up on the website.

I request that attendees here today introduce themselves before speaking for the first time and for all members to ensure they do not speak over the top of each other to ensure accuracy of the transcript. So without further ado, will begin and we might start by just getting the good Department folk to introduce themselves. Thank you.

MR RUKSHAN DE SILVA: Rukshan de Silva, I'm acting director for Metro West, Central and South.

MR WRIGHT: Hi Rukshan, nice to meet you.

MR DE SILVA: Good to meet you.

45 **MS ELIZABETH KIMBELL:** Elizabeth Kimbell, manager, local planning, council support, looking after The Hills and Liverpool.

MR WRIGHT: Hi, Elizabeth.

MS GABRIELLE COLEMAN: Hi, everyone. My name is Gabrielle Coleman, I'm a senior planning officer in the same team as Rukshan and Elizabeth, also looking after The Hills.

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MR WRIGHT: Thank you, Gabrielle. Probably going to start I think with a bit of an overview from DPHI in terms of its position it's arrived with this planning proposal. So I don't know who might want to speak to it. I know there's a set of slides that were sent through this afternoon, which I'm sure we'll be able to share on the screen. But Elizabeth, Gabrielle, Rukshan, who might lead this?

MS KIMBELL: Yes, I will -

MR WRIGHT: Elizabeth.

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MS KIMBELL: – take the IPC through.

MS COLEMAN: And I can share my screen as well. Just give me one sec. Just let me know when on as well. Is that working?

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MR WRIGHT: Not yet but –

MS COLEMAN: No? Okay. If I go to share, is that working?

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MR WRIGHT: Looks like it's going to start. Yes.

MS COLEMAN: Okay, great. Liz, did you want to kick off?

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MS KIMBELL: Great. Thanks, Gabrielle. Okay, so this presentation is to briefly take you through the Department's key considerations in assessing this plan proposal, specifically in relation to the introduction of residential flat buildings on the subject site. In a couple of places throughout this presentation I've included some comments to address some of the key issues listed in the agenda issued by the IPC.

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A brief overview of the planning proposal, as assessed at Gateway. The planning proposal sought to increase the height of building and floorspace ratio and introduce an additional permitted use to enable a residential flat building with a maximum of 76 dwellings and 5% affordable housing for 10 years. The site is located within the Norwest Strategic Centre, adjacent to the Norwest metro station. It's noted that the residential flat building development would be approximately 150 metres from the station. The site currently contains 2 to 3 storey strata titled commercial buildings. The site has frontage to Norwest Boulevard and interfaces with existing low density residential areas on its southern and western boundaries.

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To respond to a key issue on the agenda the Department's position on residential land uses as an additional permitted use, there are examples of residential land

uses enabled through additional permitted uses. Such an amendment to the LEP would be assessed at Gateway to determine if the proposal had strategic insight specific merit, but currently we're not aware of any practice notes or circulars to guide the Department's consideration of this. Next slide, please.

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So the land use zoning plan just shows the clear boundary for the SP4 enterprise zone, the surrounding medium and high density residential land uses and the E1 local centre land use zone, which permits shop top housing. Next slide, please.

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So earlier this year, a Gateway determination was signed by the executive director, local planning and council support, as the delegate of the Minister for Planning and Public Spaces, who determined that the planning proposal should proceed subject to the proposal being updated in accordance with the conditions we see on the slide. The Proponent has lodged a Gateway review to remove condition 1A, which is the focus of this presentation. Next slide.

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The Department's primary concern with the proposed residential site building provision was that it was not supported by strategic merit. The Department's guide to local environmental plan making is clear that a planning proposal must first demonstrate strategic merit, then site specific merit can be considered. In demonstrating strategic merit, the assessment criteria for a proposal include: does the proposal give effect to the district plan? Demonstrate consistency with the relevant local strategic planning statement or LSPS or strategy that has been endorsed by the Department? Does it respond to a change in circumstance that has not been recognised by the existing planning framework?

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Such changes in circumstances may include key infrastructure investment opportunity not anticipated by the existing strategic planning framework, response to key government priorities, changes to population and demographic trends and associated needs such as housing or jobs.

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In response to this criteria, the Department's assessment considered that the residential component of the proposal was inconsistent with the district plan, The Hills LSPS, the housing strategy, which was also endorsed by the Department, the North West Rail Link Corridor Strategy 2013, which was prepared by the Department.

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In respect to the change in circumstances, the existing state and local strategic planning framework responds to the Norwest metro station. The need for housing has been considered by state and local government with the state government announcing programs to create more well-located homes close to transport, jobs and services through the Transport Orientated Development Program. The Department's website includes some information about the TOD program, including a fact sheet on the assessment criteria, which I sent through with the presentation. But in summary, a number of factors were considered in selecting stations and surrounding areas to be part of that program and Norwest metro station and surrounding area was not included.

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In respect of local planning, at the time of Gateway assessment, Council was in the process of finalising its Norwest Precinct Plan. The Department advised Council that should it wish to encourage increased residential outcomes in the Norwest precinct, this should be considered holistically in finalising the draft precinct plan. The endorsed precinct plan identifies some employment sites flagged as investigation areas for minor residential development, subject to meeting certain criteria. This site was not identified.

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The next steps for Council is to prepare a planning proposal to amend the planning controls to give effect to the adopted precinct plan and send to the Department for Gateway assessment. It's noted from Council's submission that if this proposal does not proceed, Council will likely include the site within the Council led planning proposal for this area to facilitate an employment only outcome.

As demonstrated in the Department's Gateway assessment report and Gateway review report, both local and state planning frameworks align in that the site is to be developed for employment uses only. The LEP making guideline states where a proposal fails to adequately demonstrate strategic merit, it is unlikely to progress despite any site specific merit it may have.

To respond to a key issue in the agenda, strategic context, current and future emerging, the Department has taken over the responsibilities of the former GCC and is currently reviewing the Greater Sydney region plan. So that would be the only change that we would foresee in the immediate future. Next slide, Gabby.

Now, I'll briefly summarise the strategic planning framework, as referenced in an earlier slide, and conclude with some comments on Council's precinct plan. So the Department was not satisfied that the proposal gave effect to the district plan in accordance with s 3.8 of the EP&A Act. The commercial component of the proposal is considered consistent with the plan, however the residential component was not considered consistent.

The residential component was considered inconsistent with a number of planning priorities relating to housing and strategic centres. While the residential component of the proposal is broadly aligned to the objectives of housing planning priorities, housing is to be provided in the right locations and it is considered that the location of this component is not appropriate as the residential use would limit commercial development opportunities.

The site is located within Norwest strategic plan and has an upper jobs target of 53,000 jobs. Employment growth is the principal underlying economic goal for metropolitan and strategic centres, as demonstrated in the district plan's action for Norwest Strategic Centre being to retain and grow commercial capacity to achieve the centre's job targets. The proposal is inconsistent with this priority for the following reasons. The proposed 20% residential development is not considered to be a minor variation, it's the requirement for the entire site to be made available for commercial development. The circumstances of the site were not considered unique or unlikely to be replicated in the precinct.

There are a number of other sites in the precinct that are adjacent to a residential zone and close to the metro station, particularly those along Brookhollow Avenue. Existing and planned residential development is and will be located within close proximity to urban amenities in the centre, particularly Bella Vista and Baulkham Hills. Just noting that Norwest Strategic Centre encompasses some areas to the east and west, as you can see a little bit on the slide.

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I just thought I'd also briefly mention that the proposal is inconsistent with the s 9.1 direction, 7.1 employment zones, as it reduces the total potential floorspace for employment uses for the proposed residential uses and the objective to encourage and protect employment lands. The proposal seeks to justify this inconsistency, stating it is of minor significance as the proposal protects and retains the majority of the site for employment uses. We do not consider that 20% of the proposed additional floor area to be of minor significance. Next slide, please.

So I'd like to briefly mention the Norwest Rail Link Corridor Strategy. This was a strategy that was prepared by the Department of Planning. It is dated 2013. It is also given additional weight by the s 9.1 direction. As we can see in the slide, the site is identified as for commercial purposes. There are some job targets in there, however we note that strategic planning done by local Council has increased those job targets. The proposal is inconsistent with this strategy as it seeks to introduce the residential uses on this land identified as commercial and it fails to adequately justify the inconsistency. Next slide, please.

Another consideration is the Council's local strategic planning statement, the LSPS. The LSPS recognises commercial office precincts such as Norwest as essential clusters for high order employments where businesses can agglomerate. The proposal is inconsistent with this priority to retain the Norwest Strategic Centre for employment uses as the LSPS has not identified the site for residential uses.

The applicant's point that the LSPS was adopted by Council at a point in time and predates Council's decision on the planning proposal is correct, however Council's latest precinct plan does not identify the site as an investigation site for residential uses and if the proposal did not proceed, then Council would include it as employment only uses in their planning proposal.

Also just a note linked to the LSPS is that The Hills housing strategy, which I think I mentioned the Department also endorsed, has a – the residential component of this proposal is inconsistent with the strategy as the strategy includes an action seeking to discourage plan proposals seeking to rezone employment for residential purposes. Next slide, please, Gabby.

Finally, just a few notes on the Council led Norwest precinct plan, that it was exhibited in mid-2023 and at the time of Gateway assessment, the precinct plan had not been finalised. The Department advised Council in its letter regarding the

Gateway determination allowing this proposal to proceed subject to conditions that if Council wish to encourage residential outcomes in the Norwest precinct, then it should be considered holistically when they finalise the plan.

The plan was finalised and adopted by Council in July 2024 and as stated in Council's submission to the Gateway review, the precinct plan builds on the pre-existing local and state strategic planning framework and is the next step to inform potential changes to both the planning controls and infrastructure framework in a holistic manner.

As shown in this slide, the subject site is located within Norwest Central Precinct.

The precinct will remain a key employment destination with a designated commercial area close to metro station and mixed use area at Norwest Marketown with highest densities around those areas. The plan identifies that the existing R3 medium density residential development adjoining the site will transform into high

medium density residential development adjoining the site will transform into high density residential.

The plan identifies a site within the designated commercial area in the structure plan and key desired outcome is a high density commercial office. The plan also notes that the subject planning proposal being under assessment. The Department's assessment concluded that the residential component in this plan proposal is therefore inconsistent with the draft plan.

MR WRIGHT: Hey, Elizabeth, can I just ask a question there in terms of that proposal for high density res to – it must be to the immediate south of this site. So that's what's envisaged? Is that the entirety of the – I'm just looking at the colours there, is that almost the entirety of the strip along that sort of darker orange colour? Is that R4?

30 **MS KIMBELL:** Yes.

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MR WRIGHT: Yes, yes.

MS KIMBELL: Yes, yes. There is a little bit of existing R4 in that area, kind of a midway block. But yes, so Council were envisaging that to be more of a complete strip of R4.

MR WRIGHT: Right. Okay.

40 **MS KIMBELL:** Just at the end of the presentation.

MR WRIGHT: Okay. Thank you, Elizabeth. Very good, that was very useful. Good. Can we just go back to the question of strategic merit? I mean, the Proponent contends that the site does have strategic merit. I think primarily because of some of the changes around context and subsequently government priorities when it comes to housing supply in particular and the housing crisis and the TOD program. So I know that the contribution of housing is relatively modest but housing it is, including affordable housing in the proposal.

So the Commission will be grappling with this issue of strategic merit and this is one of the other things we need to put our mind to further. So from DPHI's perspective, that housing supply priority of government, as made very clear to the whole of the state, to what extent does that support or not support a strategic merit assessment here?

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MS KIMBELL: So I guess we note that housing is a key priority for state government and I guess that it's been made clear how the government is addressing that key priority through the programs that they're proceeding with. In terms of the application of housing close to kind of other stations, I guess that is why we're talking about the planning proposal and then it would come down to how it fits in with the strategic planning framework.

So yes, I don't think it's appropriate that just because a site is near a train station that it is automatically considered for increased residential development. That is why we have the strategic planning framework and in this particular case, there's been a lot of strategic planning work done, both the state and local, to get to this point for Norwest. Do you have anything to add, Rukshan?

MR DE SILVA: No, I agree with you. Yes, I think the Department's position is yes, we understand that housing is a priority but there are plans in place for that reason as well.

MR WRIGHT: Hey, look, when we met with the Proponent yesterday, they were referring to the Norwest Precinct Plan, which has now been adopted by Council, yet to have effect as a [non-transcribable] obviously and they were contending that – noting that there were some sites, I think three sites identified, three SP4 sites identified for potential additional resi but not this site. But that for the precinct plan identified criteria if you were – in addition to those three sites, which might inform where residential development may be suitable where you have a commercial zoning.

And they talked about criteria such as in a consolidated lot with at least 4 hectares. There could've been another criteria, which I can't recall just off the top of my head now, but do you have a view in terms of whether that, the addition of the three sites identified, whether there's a kind of a pathway under that plan for sites to be considered in addition to those three baseline explicit or implied criteria in the plan?

MS KIMBELL: Yes, I am aware of the criteria that you're referring to. My view is that they established this criteria and then that is what led to the identification of the investigation sites. We haven't done an assessment against the criteria that were put forward in the draft or in now the finalised precinct plan but if Council hadn't identified as an investigation area, then — and they've just finalised that piece of strategic planning framework, then we'd have to look at it very carefully as to why a site that wasn't identified should now proceed and that will be also through a plan proposal.

MR WRIGHT: Yes. And curious also the Council is now – or so council officers are supporting the planning proposal, it would appear that's the most recent development So there seems to be some sort of potential disjunct between the strategic planners and maybe the planning approval ones – I don't know – in the Council because they seem to be sort of – not quite talking to each other.

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MS KIMBELL: I mean, I guess the other comment that I would make, which I think was on the slide, is the next step for the precinct plan was that it would come to the Department for assessment via planning proposals. So Council are not doing a holistic planning proposal, as I understand, they are doing a Council led planning proposal for certain sites and this would obviously be part of it if the proposal did not proceed.

But it seems like they're – and I'm sure Council will talk to this, that there are a number of sites within Norwest precinct that are in a similar situation, not in terms of the development proposed but the fact that there are planning proposals that are in training while the precinct planning and the plan has been adopted. I'm not aware of the other ones in this precinct but the same approach – we would take the same approach – I think this might be actually one of the last ones that come to us for Gateway assessment because now the plan is adopted.

So I would assume anything that comes through from this point on would be consistent with the plan. For example, we have received a planning proposal for the local centre land use zone next to the metro station and as I understand, that is relatively consistent with this plan, although we have yet to do our Gateway assessment. And that one does propose significant number of dwellings.

MR WRIGHT: I understand. So Elizabeth, your thinking is that if this planning proposal doesn't proceed, Council would approach DPHI with a planning proposal which would be for kind of high rise commercial only or for this site based on the adopted new Norwest Precinct Plan?

MS KIMBELL: Yes, correct. And that was also in their submission to us, that that was the next step.

MR WRIGHT: Okay. So in terms of strategic – going back to this question of strategic merit, we talked about the housing supply crisis, as we want to call it, and you mentioned the TOD program and the Norwest metro station not being identified in that and obviously not every train station or metro station in Sydney has been. Do you know why Norwest wasn't included? Was there something about Norwest which made it not eligible for identification in the TOD program?

MS KIMBELL: I haven't been through the criteria. I've only had a brief overview of the criteria that I sent through. So that's definitely something we could provide a brief assessment on. The document I sent through is quite clear in the criteria that was considered in selecting locations.

MR WRIGHT: Well, it's going to be useful if there's some sort of analysis behind the identification of transport nodes which weren't included in TOD and we have something either general or specific to Norwest. General and specific to Norwest would be even better. That'd be really useful if you take that on notice. Thanks, Elizabeth.

MS KIMBELL: Sure.

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MR WRIGHT: Can I ask – sorry?

MS KIMBELL: No, sure, we can provide that.

MR WRIGHT: Can I ask a question about the proposal for high density residential development which will be, by the sounds of it, a consolidated lot by consolidated basis via planning proposals from Council to the Department. To what extent does that – I don't know – at least the – and obviously the shire Council hasn't formally approached, I don't think, the Department with a planning proposal for any elements of that Norwest Precinct Plan to date. But is there a view that DPHI has about the appropriateness of that high density residential in that location given the state government's policy?

MS KIMBELL: Just so I'm clear, the high density residential, which location are you –

- MR WRIGHT: Proposed. This is the new this is the uplift proposed on the southern end of that land, to the south of the subject site and then stretching both to the east and to the west.
- MS KIMBELL: Okay. Yes, I see. So you're asking what the Department would think about that proposal?

MR WRIGHT: Yes.

- **MS KIMBELL:** I would say that we would we won't form a view until it's sent to us for Gateway assessment. However, I note from reading their precinct plan that that is a longer term residential pipeline and it would be up to I understand it would be up to the developer or land owners to prepare their own planning proposals but Council would be able to provide you with more details about that.
- MR WRIGHT: Yes. And this is a hypothetical question and I don't want to put you on the spot, Elizabeth, but in terms of the argument that the Proponent's making about it's probably more of a site merit rather than a strategic merit argument, that the thin end of the wedge of the site is if you have resi there, it's a transition from an adjoining residential development. If the Norwest Precinct Plan was to be given effect to along the western and southern boundary of the site with high density residential, would that impact at all on either the strategic or site merit of the planning proposal?

MS KIMBELL: To confirm, you're saying that if this finalised precinct plan had actually included basically what the planning proposal is seeking, would that change the Department's decision?

5 **MR WRIGHT:** Correct. Yes.

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MS KIMBELL: We would look at it carefully but I am conscious of that the Department's assessment would focus on the strategies that have been endorsed by the Department and prepared by the Department and also the district plan. I feel like this is quite a unique example for this precinct particularly as this boundary has always been maintained in the range of local and state government strategies.

MR WRIGHT: Yes. It's consistently been commercial, yes?

15 **MS KIMBELL:** Yes, correct.

MR WRIGHT: Yes.

- MS KIMBELL: So I mean we would consider it. It's something that we'd have to look at but we would place more weight on the strategies that have been endorsed by the Department.
- MR WRIGHT: Okay. Again, it's not really a planning matter and I said as much to the Proponent yesterday but they did mention economic feasibility and the changing nature of the commercial office market, certainly post-COVID, hybrid working arrangements, et cetera and we know that there is lots of vacant office space in certain parts of the city.
- So I suppose this is sort of a double barrel question, going back to the strategic merit, is the change in job demographics post-COVID a matter that would necessitate or support consideration of strategic merit in this site? And the second part of the question is to what extent is the Department concerned about the feasibility of actually bringing additional commercial office space to market, given the current demand for that product?
 - MS KIMBELL: I might have to take that one on notice. I just would like to confirm and have a look at the material that the applicant submitted as part of the planning proposal. So yes, we'll get back to you.
- 40 **MR WRIGHT:** Yes, sure. Maybe something more general about the changing nature of the commercial office market. Any views the Department has about that? Not necessarily specific to this site. Again, take that on notice if you wish.
- MS KIMBELL: Yes, take that on notice. The only thing that I would say is I know that there was a lot of there were a few studies and investigations done by Council to support this precinct plan, being across quite a large area and obviously a very important strategic centre for them. So I think that they would also have the background studies which informed this precinct plan. So just noting that, in the

final precinct plan, this site is identified to have a floorspace ratio of 3:1, which is actually what the Proponent is proposing as well.

So while there's conditions in the Gateway determination which I guess looks at – asks the Proponent to confirm about the floorspace ratio now that we have removed the residential component. I'm just conscious of that the final precinct plan adopted by Council is looking at a similar end product but employment only. So I just wanted to make that comment but yes, we can get back to you about some further information but also perhaps one for Council as well in terms of the evidence supporting the increase in office and employment uses in this –

MR WRIGHT: Yes. Just on that point and maybe you're going to answer it by looking into that but I was trying to get my head around with the Norwest Precinct Plan and the commercial office space uplift proposed for this particular site and then the office space uplift the Proponent is proposing, is it the case that you would effectively, if this proposal didn't go ahead, that additional office space the Proponent is proposing to deliver here could be delivered in any event under the precinct plan?

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MR WRIGHT: That's correct. And is it then the case that the housing element proposed by the Proponent, if it went ahead, would actually reduce the total amount of commercial floorspace that might otherwise be devoted to the site?

MS KIMBELL: That's my understanding. Correct.

MR WRIGHT: That's probably worth getting some information on, just strictly speaking in terms of the height of buildings proposed in the Norwest Precinct Plan because this planning proposal steps down height of building to 10 storeys to the west. I'd be interested to know whether you'd end up with a very different configuration of buildings in the absence of residential. So would you end up with, I don't know, three 23 storey commercial towers instead of a 23, a 16 and a 10 storey residential tower? Does that make sense?

MS KIMBELL: Yes, I understand what you're saying. That's something that we might need to get some advice on.

MR WRIGHT: That'd be great. Thanks. Now, I've got another question about the provision of retail at this site under the proposal and perhaps it'd be the case that even if there was no housing at the site. Is there a sort of a broader precinct view about how retail is to be delivered? I know that often it's the case that you deliver retail in one location, it detracts from retail in other locations. Has there been any consideration of larger sort of retail demand and supply issues across the precinct?

MS KIMBELL: We haven't considered that as the Department, no. Again, that would be something that Council would've considered in preparing this precinct

plan. Also, noting that we've got the planning proposal in for the local centre area, so there may be some – a background study that we will need to consider in assessing that planning proposal. But at this point, we haven't had a look at it.

5 **MR WRIGHT:** I understand. Yes, okay. Well, I think that is all the questions that I wanted to ask. I might just throw to Kendall and Oliver. Kendall, any questions?

MR KENDALL CLYDSDALE: No, Michael. No questions. But just also let the Department know, we've taken notes about some of those questions on notice and we'll put that in some correspondence to you as well, just so you're not trying to recall what was said. So don't be too worried about that. We'll get that in writing to you.

MR WRIGHT: Oliver?

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MR OLIVER COPE: Nothing from me. Thanks, Michael.

MR WRIGHT: Okay. Well, Elizabeth, Gabrielle and Rukshan, thank you very much for your time. That was really very, very useful and thanks for taking those matters on notice and we'll continue to consider this matter further. So we've met with the Proponent, we've met with the Department and the next step is for us to meet with the Council to get its views. So thank you very much and enjoy the rest of your afternoon. And Oliver and Kendall, if you could stay on the line, please.

25 **MR CLYDSDALE:** Thanks, everyone.

MS KIMBELL: Great, thank you.

MS COLEMAN: Thank you.

MS KIMBELL: Thank you for your time. Bye.

>THE MEETING CONCLUDED